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07/815,782 01/02/92 HARDAWAY A PA-5839-0-AW

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04/16/92

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire three (3) month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☒ Notice re Patent Drawing, PTO-948.
3. ☒ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____.

Part II SUMMARY OF ACTION

1. ☒ Claims 1-13 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☒ Claims 1-13 are allowed.

4. ☐ Claims _____ are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application apppears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev.9-89)

Claims 1-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 7-10 and 12-15 of copending application Serial No. 07/815,784. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to rinse fabric at a speed to effect more than or less than a one gravity centrifugal force on the fabric.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hoffmann et al (U.S. Patent no. 4,432,111).

Hoffmann et al. disclose a method of washing textiles in a tub-type washing machine with a horizontally arranged tub, in which during the washing and rinsing cycles the tub is driven with a rotational velocity at which the centrifugal velocity at the tub case is between 0.4 and 0.95 g, so that the textiles are repeatedly lifted up, and then fall in a tragactory onto the lower portion of the tub, and that between the washing and rinsing cycles and after the last rinsing cycle the tub is driven at spin speed until the complete discharge of the liquid (see abstract and claims).

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-13 are rejected under 35 U.S.C. § 103 as being unpatentable over Hoffman et al. in view of Brenner et al. and Syles.

Hoffman et al. was discussed supra. The reference fails to disclose washing fabric in a concentrate detergent solution of at least 0.5% detergent by weight and recirculate water while rinsing the fabric.

Brenner et al (U.S. Patent no. 4,784,666) disclose a method of washing a textile wash load in washing machine with a concentrated detergent solution containing a detergent concentration of 0.5% to 4% by weight (see abstract and claims). The reference fails to recirculate water while rinsing the fabric.

Syles discloses a method of cleaning fabrics by washing fabrics with laundry liquid and recirculating the rinsing liquid during rinsing cycle (see col. 7, line 52-72). The reference fails to wash with a concentrated detergent solution of at least 0.5% detergent by weight.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others and the inventors educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

It would have been obvious at the time applicant invented the claimed process to utilize 0.5% concentrated detergent solution and recirculate water during rinsing cycle into the process of Hoffman et al., since it is well-known in the art to utilize detergent solution more than 0.5% concentrated detergent solution and recirculate water during rinsing cycle.

Furthermore, it would have been obvious at the time applicant invented the cited steps of Brenner et al. and Syles into the process of Hoffman et al. since all of the references contemplate cleaning fabric in a washing machine and are therefore concerned with the same technical endeavor. (See In re Wood 202 USPQ 171, 174).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (703) 308-3319.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Chaudhry 4/15
S. Chaudhry:aw
April 15, 1992

Theodore Morris
Supervisory Patent Examiner
Patent Examining Group 110